

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

John William Tapp, III, # 249578,
aka John W. Tapp III

Plaintiff,

v.

Salika Jeffcoat, Officer at Kirkland
Correctional Institution,

Defendant.

C/A No. 6:07-cv-02407-GRA

ORDER

(Written Opinion)

This matter is before the Court for review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1). The plaintiff brought the immediate suit on July 23, 2007, in order to recover for defamation stemming from an allegedly improper disciplinary action within Kirkland Correctional Institution. The magistrate recommended that this Court dismiss the Plaintiff's complaint without prejudice and without issuance and service of process.

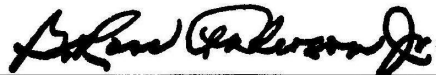
Plaintiff has proceeded *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir.), cert. denied, 439 U.S. 970 (1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Cruz v. Beto*, 405 U.S. 319 (1972). According to Local Rule 73.02(B)(2)(e), the plaintiff's *pro se* complaint was referred to the magistrate.

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject or modify, in whole or in part, the recommendation of the magistrate, or recommit the matter to the magistrate with instructions. 28 U.S.C. § 636(b)(1). The plaintiff made no objections.

The magistrate's Report and Recommendation recommended dismissing the plaintiff's suit without prejudice and without issuance and service of process because this Court lacks the subject matter jurisdiction, either diversity or federal question, to hear the plaintiff's complaint. After a review of the record, this Court finds that the magistrate's Report and Recommendation accurately summarizes this case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Plaintiff's Complaint be DISMISSED without prejudice and without issuance and service of process, due to lack of subject matter jurisdiction.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

August 30, 2007
Anderson, SC

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order thirty (30) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.